

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Tylon Larrice Newcomb,

Civil No. 16-811 (JNE/FLN)

Plaintiff,

v.

City of Anoka et al.,

**REPORT AND
RECOMMENDATION**

Defendants.

Tylon Larrice Newcomb, *pro se*, for Plaintiff.
Daniel Kurtz for Defendant City of Anoka.

This matter came before the undersigned United States Magistrate Judge on October 21, 2016, on Defendant City of Anoka's motion to dismiss or alternatively for summary judgment (ECF No. 10). This matter was referred to the undersigned for a Report and Recommendation pursuant to 28 U.S.C. § 636. Order, ECF No. 15. Tylon Larrice Newcomb did not respond to City of Anoka's motion and agreed at the hearing that because the City and the County of Anoka are separate and distinct entities, he does not oppose City of Anoka's motion to dismiss.¹

Based upon the foregoing and all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that City of Anoka's motion to dismiss be **GRANTED** (ECF No. 10).

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Newcomb filed his Complaint on March 29, 2016, alleging that City of Anoka and Officers David Hutchinson, Canon Yang, Andrew Carlson, Jordan Trammel and Caroline Pruter, violated his constitutional rights. On August 19, 2016 Newcomb filed a motion for default judgment against both City of Anoka and Defendant Officers (ECF No. 18). At the hearing, Newcomb represented that the motion for default judgment was only directed at Defendant Officers. The motion for default judgment, however, has not yet been noticed for hearing and is not taken under consideration here.

DATED: November 17, 2016

S/Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **December 1, 2016**, written objections that specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within fourteen (14) days after service thereof. All briefs filed under the rules shall be limited to 3,500 words. A judge shall make a de novo determination of those portions to which objection is made.

Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed by December 1, 2016 a complete transcript of the hearing.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.